REMARKS

Applicants have filed a Request for Continued Examination (RCE) along with the present amendment pursuant to 37 CFR §1.114.

Claims 1-9, 11-19, 23-30, and 32-39 are pending. Claims 10, 20-22, and 31 have been cancelled. No claims have been allowed.

The Examiner rejected Claims 1-6, 12, 13, 15-17, 19, 26, 30-32, and 39 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,360,442 to Dahl et al. ("Dahl et al. '442") in view of U.S. Patent No. 5,483,022 to Mar ("Mar '022"), and rejected Claims 23, 24, and 27-29 under 35 U.S.C. §103(a) as being unpatentable over Dahl et al. '442.

Dahl et al. '442 discloses an electrode 16, shown in Fig. 1, including electrode segments 18, 20, and 22 that may have the construction shown in Figs. 2, 3, 5, or 6, for example. In Fig. 2, each wire includes a silver core 30 surrounded by tube 32 of stainless steel, with an outer coating 34 of platinum applied by sputtering or other deposition process (col. 5, lines 28-66). The construction of Fig. 3 is the same as that of Fig. 2, except that same has a round, rather than rectangular, cross-section. In the construction of Fig. 5, a silver core 73 is surrounded by six stainless steel wires 75 and is drawn, but does not include an outer shell or tube. In the construction of Fig. 6, a plurality of conductors 76 each made of a silver core surrounded by a stainless steel tube are twisted together, but this construction does not include an outer shell or tube.

Each of the foregoing constructions disclosed in Dahl et al. '442 is different from the constructions claimed in independent Claims 1, 12, 23, and 30, namely, a wire construction including an outer shell or tube made of a first biocompatible metal, and a plurality of wire elements disposed within the shell, the wire elements either including a metallic shell of a second biocompatible metal filled with a third biocompatible metal or being formed of second and third biocompatible metals, wherein the foregoing construct is drawn such that substantially no voids exist within the outer shell.

In rejecting the claims, the Examiner appears to have conceptually combined the outer coating 34 of the wire constructions of Figs. 2 and 3 of Dahl et al. '442 with the multi-wire

construction of Fig. 6 of Dahl et al. '442 which does not include an outer shell or tube. However, one of ordinary skill in the art would know from the teachings of Dahl et al. '442 that the constructions of Figs. 2/3 and that of Fig. 6 are different from one another, and Dahl et al. '442 does not teach the addition of an outer layer or coating to the construction of Fig. 6.

As described above, the wire constructions of Figs. 2 and 3 of Dahl et al. '442 include only a single wire element formed of a metal tube and a metal core, the wire element having an outer coating. To the extent that the outer coating may be considered an outer shell or tube, same is formed by sputtering or other deposition process, and does not itself receive therein a plurality of wire elements to form a construct that is then dawn such that substantially no voids exist within the outer shell, as claimed. The constructions of Figs. 5 and 6 lack outer shells or tubes and, to the extent that same could include an outer coating of platinum, for example (which is not taught by Dahl et al. '442), Dahl et al. '442 teaches forming such a coating by sputtering or other deposition process.

In this context, the Examiner has set forth no reasoning as to why one of ordinary skill in the art, without knowledge of Applicants' clamed invention, would modify the teachings of Dahl et al. '442 with respect to the disclosed conductors to arrive at the metallic leads and wires, and methods of making same, which are called for in the pending claims.

In particular, Dahl et al. '442 teaches that forming the outer coating by a vapor deposition process is particularly advantageous, stating at col. 5, lines 48-66, *inter alia*, that "the platinum coating when applied by vapor deposition provides a microtexture which substantially increases the reactive surface area of the electrode segments, to reduce near field impedance of the electrode...". Thus, one of ordinary skill in the art, without knowledge of Applicants' clamed invention, would not modify the teachings of Dahl et al. '442 in the manner relied upon by the Examiner to arrive at Applicants' claimed invention.

Therefore, Applicants respectfully submit that each of independent Claims 1, 12, 23, and 30, as well as the claims that depend therefrom, are not obvious based on Dahl et al. '442.

The Examiner also rejected Claims 1, 3-9, 11, 12, 14-19, 26, and 30-39 on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over Claims 5, 8-13, 15,

19, 23, and 25 of co-pending U.S. Patent Application Serial No. 11/203,986 in view of Mar '022, and rejected Claims 23-25, 27, and 28 of the present application on the same grounds over Claims 16, 17, and 25 of the co-pending '986 application.

Responsive thereto, Applicants submit herewith a Terminal Disclaimer disclaiming the term of any patent granted on the instant application which could extend beyond the maximum possible term of any patent that may be granted on the '986 application.

In the event Applicants have overlooked the need for an extension of time, payment of fee, or additional payment of fee, Applicants hereby petition therefore and authorize that any charges be made to Deposit Account No. 02-0385, Baker & Daniels LLP.

Should the Examiner have any questions, the Examiner is respectfully invited to telephone the undersigned at 260-460-1741.

Respectfully submitted,

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